
HOUSE BILL No. 1705

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-15-6-3; IC 31-17-6-3; IC 31-32-3; IC 31-33-15-1; IC 31-34.

Synopsis: CASA changes. Prohibits a guardian ad litem or court appointed special advocate (CASA) from having ex parte communications with a judge or coaching a child regarding testimony. Requires a guardian ad litem or CASA in certain juvenile court proceedings to make reasonable efforts to preserve the family and present unbiased evidence that is not prejudiced for or against the interests of a child. Prohibits a court from issuing an order removing a child from the child's home unless the court finds by clear and convincing evidence that the child's physical and mental condition will be seriously impaired or seriously endangered if the child is not taken into custody.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Human Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1705

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-15-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A guardian ad litem
3 or court appointed special advocate:

4 (1) shall represent and protect the best interests of the child;

5 (2) **has a duty to present evidence to the court that is**
6 **unbiased; and**

7 (3) **may not:**

8 (A) **suggest or rehearse testimony with a child in**
9 **anticipation of a hearing under this article; or**

10 (B) **have ex parte communications with a judge concerning**
11 **the proceeding for which the guardian ad litem or court**
12 **appointed special advocate was appointed.**

13 SECTION 2. IC 31-17-6-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A guardian ad litem
15 or court appointed special advocate:

16 (1) shall represent and protect the best interests of the child;

17 ~~A guardian ad litem or court appointed special advocate serves~~



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(2) has a duty to present evidence to the court that is unbiased;

(3) shall serve until the court enters an order for removal; and

(4) may not:

(A) suggest or rehearse testimony with a child in anticipation of a hearing under this article; or

(B) have ex parte communications with a judge concerning the proceeding for which the guardian ad litem or court appointed special advocate was appointed.

SECTION 3. IC 31-32-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. ~~If necessary to protect the child's interests,~~ The court may appoint an attorney to represent the guardian ad litem or the court appointed special advocate. The court may only appoint one (1) attorney under this section.

SECTION 4. IC 31-32-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A guardian ad litem or court appointed special advocate:

(1) shall represent and protect the best interests of the child; make reasonable efforts to preserve the family unless the child's physical or mental condition will be impaired or endangered by living with the child's family;

(2) has a duty to present evidence to the court that is unbiased and not prejudiced for or against the interests of the child; and

(3) may not:

(A) suggest or rehearse testimony with a child in anticipation of a hearing under this title; or

(B) have ex parte communications with a judge concerning the proceeding for which the guardian ad litem or court appointed special advocate was appointed.

SECTION 5. IC 31-32-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The guardian ad litem or the court appointed special advocate, or both, shall be considered officers of the court. ~~for the purpose of representing the child's interests.~~

SECTION 6. IC 31-33-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** In every judicial proceeding under this article, the court may appoint for the child a guardian ad litem or a court appointed special advocate, or both, under IC 31-32-3.

(b) A guardian ad litem or court appointed special advocate:

(1) shall make reasonable efforts to preserve the family unless

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the child's physical or mental condition will be impaired or endangered by living with the child's family;

(2) has a duty to present evidence to the court that is unbiased and not prejudiced for or against the interests of the child; and

(3) may not:

(A) suggest or rehearse testimony with a child in anticipation of a hearing related to a report prepared or investigation conducted under this article; or

(B) have ex parte communications with a judge concerning the proceeding for which the guardian ad litem or court appointed special advocate was appointed.

SECTION 7. IC 31-34-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. A court may not issue an order to take a child alleged to be a child in need of services into custody under this chapter unless the court finds by clear and convincing evidence that the child's physical and mental condition will be seriously impaired or seriously endangered if the child is not taken into custody.**

SECTION 8. IC 31-34-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. The juvenile court shall release the child to the child's parent, guardian, or custodian. However, the court may order the child detained if the court makes written findings of fact upon the record of probable cause to believe and finds by clear and convincing evidence that the child is a child in need of services and that:**

(1) detention is necessary to protect the child;

(2) the child is unlikely to appear before the juvenile court for subsequent proceedings;

(3) the child has a reasonable basis for requesting that the child not be released;

(4) the parent, guardian, or custodian:

(A) cannot be located; or

(B) is unable or unwilling to take custody of the child; or

(5) consideration for the safety of the child precludes the use of family services to prevent removal of the child.

SECTION 9. IC 31-32-3-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

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